IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

WP(C).No. 4293 of 2007(J)

PETITIONERS:

1.BAIJU SAKARIA, VENNUKKARAN HOUSE,
KORATTY EAST, THRISSUR DISTRICT.

2.M.O.AUGUSTY, MANJALY HOUSE,
KODUSSERY, VATTAPPARAMBU.

3.ERNAKULAM DISTRICT PRIVATE BUS
OPERATORS ASSOCIATION, ANGAMALY,
KALADY, ATHANI AREA UNIT, REGISTRATION NO.
TCR. 609/93, MUNICIPAL BUS STAND ANGAMALY,
REP. BY ITS SECRETARY K.V.KUNJU.

BY ADV. SRI.P.RAVINDRAN

RESPONDENTS:

1.THE PARUR MUNICIPALITY,
REP. BY ITS SECRETARY, NORTH PARAVOOR.

2.THE TRANSPORT REFORMS COMMITTEE,
OFFICE OF THE MUNICIPAL COUNCIL, NORTH PARAVUR.

BY ADV. SRI.T.A.SHAJI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/02/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX(W.P.C.NO.4293/07)

PETITIONERS' EXTS.:

EXT.P1: TRUE COPY OF THE LIE OF THE ROUTE, A ROUGH SKETCH.

EXT.P2: TRUE COPY OF THE NEWS ITEM APPEARED IN MATHRUBHUMI MALAYALAM DAILY DATED 21.7.2006.

EXT.P3: TRUE COPY OF THE PROPOSED ROUTE, A ROUGH SKETCH.

EXT.P4: TRUE COPY OF THE OBJECTION DATED 28.7.2006.

EXT.P5: TRUE COPY OF THE JUDGMENT IN W.P.C.NO.21525/06.

EXT.P6: TRUE COPY OF THE ORDER DATED 16.11.2006.

EXT.P7: TRUE COPY OF THE COMMUNICATION DATED 6.2.2007.

PIUS C. KURIAKOSE,J.

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W.P.(C)No.4293 of 2007

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Dated: 21st February, 2007

JUDGMENT

Two stage carriage operators and the Ernakulam District Private Bus Operators Association representating stage carriage operators conducting service in the area Angamaly, Kalady and Athani have filed this Writ Petition seeking quashment of Ext.P7 order shifting the existing Municipal Private Bus Stand at North Paraur town for a period of two months from 7.2.2007 to the Limited Stop Bus Stand and orally directing the stage carriage operators to operate via the diverted route Vendimara- Chendamangalam-Municipal Office-KMK Junction on their journey to Parur town and to return to take another route before reaching Angamaly-Chalakkudy route. According to the petitioners, the proposal of the Municipality to have repair and concreting works in the private bus stand is only a reason for compelling the operators to take these diverted routes and the bus stand does not require any repair at all. The petitioners pray for a direction commanding the respondent, the Parur Municipality and the Transport Reforms Committee of the North Paravur Municipal Council not to take any steps for closing down the existing municipal bus stand. Ext.P1 relied on by the petitioners is a rough sketch showing the lie of the route to be taken by petitioners 1 and 2 for conducting

service on the route Pallissery-North Parur-Perumbavoor on the strength of the permits issued to their vehicle by the Regional Transport Authority. The petitioners point out that these routes were extended upto Paravur Municipal town only recently after commissioning of the Manjaly bridge and the time allotted for the buses to arrive at and depart from Parur Municipal town is approximately 10 minutes only. They allege that there were intense lobbying for diverting the routes of stage carriages coming to North Paravur Municipal town from Angamaly-Chalakkudy side and thereby compel them to take a very circuitous route. Presently buses coming from Kodungallur, Aluva, Chendamangalam and Angamaly enter the town to different routes. In the town there are two municipal bus stands and one K.S.R.T.C. bus stand and depending upon the location of the municipal bus stands, the vehicles entering into the town would be required to touch either of the bus stands through a particular route and to return by the same route. But recently respondents 1 and 2 decided to re-route the buses entering into the town. Ext.P2 dated 21.7.2006 is copy of the news item regarding the said re-routing. Since Ext.P2 would compel operators like petitioners 1 and 2 to take a very circuitous route as could be clear from Ext.P3 rough

sketch and since neither the passengers nor the operators will benefit from adopting such a circuitous route and the same will result in hardship and loss both for the operators and for the passengers, Ext.P4 objection was submitted by the third petitioner to Ext.P2 proposal. Even though the Chairman of the 1st respondent-Municipality called the third petitioner for a meeting, the respondents were adamant in their stand and insisted that the variation of the route will be made effective from 15.8.2006. Under the above circumstances, the petitioners approached this court and this court under Ext.P5 judgment directed the R.T.A. to take a decision in the matter with notice to the petitioners and consider their objection also befrore decision is taken. But the R.T.A. issued Ext.P6 order directing implementation of the proposals in Ext.P2 as detailed in Ext.P3. Impugning Ext.P6, the petitioners have filed W.P.C.No.2241/07 before this court which is pending before this court. It is during the pendency of that Writ Petition that Ext.P7 communication has been issued by the Municipality. The petitioners impugn Ext.P7 and seek the reliefs already indicated.

2. The Secretary of the 1st respondent-Municipality has filed a detailed counter affidavit. They deny the allegation that it is to

circumvent the challenge the petitioners have already made to Ext.P6 decision that the Municipality has issued Ext.P7. It is contended that Ext.P7 and the maintenance works which are being carried out in the private bus stand has nothing to do with the decision of the R.T.A. The maintenance works and yard concreting of the private bus stand is being made by utilizing the funds granted for implementation of the Centrally Sponsored Integrated Development of Small and Medium Town Scheme of the Central Government. The work has already been tendered for an amount of Rs.18,70,000/-. The works have started and is going on in full swing. It is at this juncture the petitioner has filed the Writ Petition by suppressing all facts with oblique motives. If the work cannot be completed on or before 31.3.2007, the funds would lapse resulting in serious and irreparable loss and prejudice to the public at large. The filing of the Writ Petition can only be considered as the handiwork of disgruntled minds - an act of vengeance against the Municipality. The motive behind filing the Writ Petition is oblique and sinister. The counter affidavit justifies Ext.P6 order of the R.T.A. It is contended that the present Writ Petition is filed in an effort to seek relief in a circuitous manner which they have also sought for in W.P.C.No.2241/07 which even they realise they will

not be able to obtain in that Writ Petition. The statement that the bus stand does not require any repair is false. It is for the Municipality, the statutory authority to decide that matter in its collective wisdom. Nobody is entitled to stand in the way of the decision taken by the Municipality in that regard.

3. Mr.P.Ravindran, learned counsel for the petitioners and Mr.T.A.Shaji, learned Standing Counsel for the Paravur Municipality have addressed me in detail on the basis of the rival pleadings and the documents placed on record.

4. My attention was drawn by Mr.Ravindran, learned counsel for the petitioners particularly to Exts.P1, P5, P2, P6, P7 and also to Section 72(2) clauses (vi), (xxi) and (xxii) of the Motor Vehicles Act, Section 2 sub-section 38 of the the Motor Vehicles Act and the relevant provisions under the Kerala Motor Vehicle Rules. Mr.Ravindran in particular would submit that Ext.P6 order of the R.T.A. granting approval to the traffic reform of insisting that the vehicles coming from Manjaly side shall be parked in the new bus stand without entering into the old bus stand via municipal junction and KMK junction and that those vehicles shall return via Pullankulam-Chenamangalam junction and fire station road is in

gross violation of the judgment of this court in W.P.C.No.21525/2006 (Ext.P5) and the Municipality is now trying to implement Ext.P6 even as the same is under challenge before this court.

5. Mr.T.A.Shaji, Standing Counsel for the Paravur Municipality would submit that the direction to re-route the buses as per Ext.P7 is a direction which has become unavoidable due to the repairs and concreting work which have become necessary for the old bus stand and that the said direction is a general direction applying to all the vehicles and not the vehicles coming from Manjally side alone. The arrangements are only temporary, according to the learned Standing Counsel. Mr.Shaji would conclude by highlighting that the challenge raised by the petitioner aganst Ext.P6 was turned down by a learned Single Judge of this court and that the stay which had been originally granted against implementation of Ext.P6 has been vacated.

6. After I had reserved this case for judgment, the case was again posted as 'to be spoken to' at the request of Mr.Ravindran who would now submit that Writ Appeal No.393/07 preferred by the petitioners against the judgment of the learned Single Judge has been allowed by the Division Bench and that quashing Ext.P6 the issue has been re-relgated to the R.T.A.

7. I have no reason to reject the submission of Mr.Shaji that the bus stand badly needs repairs and concreting and that the works are being done in implementation of the Centrally Sponsored Integrated Development of Small and Medium Town Scheme. I am also inclined to accept his submission that the work is presently going on in full swing. Even though Mr.Ravindran submitted that permitting entry of the petitioners' vehicles to the bus stand will not in any way hamper the progress of the work which is presently going on in the bus stand, I find it difficult to accept that submission. The works certainly have to be completed in a time bound manner and that too before 31st March, 2007 and frequent entry of vehicles into the bus stand will certainly hamper the concreting work and other works which have been going on. But at the same time the question whether the petitioners' vehicles can be insisted upon to take a different route is a question which is to be answered by the R.T.A. Ext.P6 I am informed has now been set aside and the matter relegated once again to the R.T.A. by the Division Bench. Implementation of Ext.P7 to the extent it pertains to diversion of the route to be taken by the petitioners will continue to be stayed so long as the R.T.A. does not take a decision approving such diversion. But

at the same time, Ext.P7 to the extent it prevents entry of the petitioners' vehicles to the private bus stand wherein repair works and concreting works are going on will continue to operate. The Writ Petition is disposed of accordingly. But it is made clear that the directions and observations contained herein will relate only to the petitioners 1 and 2 and also those operators who are members of the third petitioner-Association operating services from Chalakudy-Mala-Angamaly side through the Manjally bridge and not to all the buses entering the North Paravur Municipal town.

srd **PIUS C.KURIAKOSE, JUDGE**